IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION (L) NO. 2781 OF 2002

India United Mills No.3 & 4. of National Textile Corporation(MN)Ltd. ... Petitioners.

V/s.

T.S. Parkar & Another. ...Respondents.

Ms. Vasanti Kunder with V.M. Parkar for the Petitioners

Mr. I.A. Engineer for the Respondent No.1.

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CORAM : DR. D.Y. CHANDRACHUD,J.

25TH SEPTEMBER, 2006.

P.C. :

1. The first Respondent joined India United Mills (Unit Nos.3 and 4) on 8th March 1985 and was working with the Mills as an Operative in the Cimco Winding Department. The first Respondent was initially employed as a Badli workman. The Labour Court by an order dated 10th January 2000 had on individual applications filed under Sections 78 and 79 of the Bombay Industrial Relations Act, 1946 held that the group of workmen were entitled to permanency under the provisions of Model Standing Order 4-C. The first Respondent was a party to those proceedings. Consequently, the management of India United Mills (Unit Nos.3 and 4) viz. the National Textile Corporation was directed to grant the benefit of permanency with effect from 1st January 1996 together with consequential benefits. This order of the Labour Court dated 10th

January 2000 was confirmed in Appeal by the Industrial Court on 7th January 2001. Against the decision of the Industrial Court, the Petitioner herein instituted Writ Petition No.2920 of 2001 under Article 226 of the Constitution of India before this Court. By a Judgment and Order dated 14th January 2002, the Petition filed by the Petitioner herein was dismissed by a learned Single Judge. The order of the learned Single Judge has admittedly attained finality.

2. The Petitioner served the First Respondent with a retirement memo on 12th June 1997 informing him that he was liable to be retired upon completing the age of 60 years on 30th June 1997. The Respondent thereupon moved a complaint of Unfair Labour Practice under item 9 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971, claiming that under Standing Order 20-A he was entitled to continue in service until he attained the age of 63 years subject to fitness. Both before the Industrial court and before this Court, the applicability of Standing Order 20-A is not disputed. The Industrial Court noted in its order that the service book was produced before the Court and a perusal thereof showed that there was no material to establish that the Respondent was unfit to continue in service until he attained the age of 63 years. There was only a solitary memo of 24th May 1986. The Industrial Court was correct in holding that such stale material could not have been relied upon. The Industrial Court

has, justifiably granted to the Respondent the benefit of Standing Order 20-A under which the Respondent was entitled to continue in service until he attained the age of 63 years.

3. In the circumstances, no case for interference under Article 226 of the Constitution of India is made out. The Petition is dismissed.